

RECEIVED
FEC MAIL
OPERATIONS CENTER

2006 DEC 14 P 12:46

Perkins
Coie

607 Fourteenth Street NW
Washington, DC 20005-2011

PHONE 202 628 6600

FAX 202 434 1690

www.perkinscoie.com

Rebecca H Gordon
Ezra W Reese
PHONE (202) 628-6600

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2006 DEC 14 P 2:17

December 14, 2006

VIA HAND DELIVERY

Kim Collins, Esq
Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 5789

Dear Ms Collins

On behalf of Bill Nelson for U S Senate and Peggy Gagnon, as treasurer ("the Committee"), this letter is submitted in response to the complaint filed by Citizens for Responsibility and Ethics in Washington and subsequently labeled MUR 5789. This complaint is entirely baseless, contains no specific facts that constitute a violation of federal election law or Commission regulations, and should be immediately dismissed.

The Commission may find "reason to believe" only if a complaint sets forth sufficient facts which, if proven true, would constitute a violation. See 11 C.F.R. § 111.4(a), (d) (2006). Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true, and provide no independent basis for investigation. See Commissioners Mason, Sandstrom, Smith & Thomas, Statement of Reasons, MUR 4960 (Dec 21, 2001).

The Complaint does not list the Committee as a respondent, the only two respondents listed are Bacardi U S A, Inc ("Bacardi") and Martinez for Senate. The Complaint does correctly note that Bacardi held a fundraising event for the Committee on September 30, 2005, the Complaint also correctly notes that Bacardi's federally-registered separate segregated fund, BAC-PAC, paid \$490 for this event and reported it as an in-kind contribution to the Committee on its 2005 Year-End Report.

The Complaint then alleges "On information and belief, Bacardi used a corporate list of outside vendors, including lawyers and lobbyists, to distribute invitations to the September 30, 2005

34644-0001/LEGAL12549665 1

ANCHORAGE BEIJING BELLEVUE BOISE CHICAGO DENVER LOS ANGELES
MENLO PARK OLYMPIA PHOENIX PORTLAND SAN FRANCISCO SEATTLE WASHINGTON, D C

Perkins Coie LLP and Affiliates

27044162433

Nelson fundraising event " (Complaint p 4) This allegation is based solely on observation that many of the same individuals – most employed by one of two vendors which provide services to Bacardi – contributed to both the Committee and to Martinez for Senate a year previously The Complaint further alleges that if it had occurred, such use of a corporate asset would be a violation of the prohibition on corporations facilitating the making of contributions, under 11 C F R § 114 2(f)(2)(i)(C) (2006)

The Complaint has set forth only mere speculation, the facts asserted are not sufficient to warrant a "reason to believe" finding of the Commission The Complaint admits that BAC-PAC paid the expenses for the event in question, and that the payment was reported to the Commission by both BAC-PAC and the Committee There is no evidence that a corporate vendor list was used by Bacardi to distribute invitations

Of the ten individuals listed in the Complaint that are alleged to have been on a corporate mailing list, six of them had previously given to the Committee, separate and apart from their contributions in connection with the BAC-PAC event

- Theodore S Christakos contributed \$2,000 on 4/17/05
- Raul G Marmol contributed \$1,000 on 11/4/2000
- Craig V Rasile contributed \$3 21 (through a partnership) on 8/8/05
- Jonathan B Slade contributed \$1,000 on 3/31/05
- Eduardo M Sardina contributed \$1,000 on 11/14/2000
- Marty L Steinberg contributed \$200 on 3/25/05

Moreover, both Bacardi vendors listed in the Complaint – Hunton & Williams and MWW Group –have previous associations with the Committee Hunton & Williams has made previous partnership contributions to the Committee, including on 3/31/03 and 8/8/05, and Jonathan Slade –identified in the Complaint as associated with MWW – is a previous contributor to the Committee In short, the contributions cited in the Complaint were either from individuals who were previous contributors to the Committee, or were from colleagues of previous contributors to the Committee There is no evidence whatsoever that Bacardi relied on a corporate list of vendors to solicit contributions

Finally, the Committee notes that though it has no knowledge or evidence that Bacardi relied on a corporate vendor list, the use of such a list is not prohibited under Part 114 so long as the corporation "receives advance payment for the fair market value of the list " 11 C F R

Kim Collins, Esq
December 14, 2006
Page 3

§ 114 2(f)(2)(i)(C) Bacardi did, in fact, receive payment from BAC-PAC for event expenses. The event in question was very small, it included only twenty-three contributors. The small value of any use of a corporate vendor list was likely included in the reimbursement to Bacardi from BAC-PAC for event expenses.

Because the Complaint does not allege any facts that constitute a violation, the Commission should immediately dismiss this Complaint.

Very truly yours,



Rebecca H. Gordon

Ezra W. Reese

Counsel to Bill Nelson for U.S. Senate & Peggy Gagnon, Treasurer